APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,224	02/27/2004	Andrew T. Fausak	049051-0244	4827

31824   7590   11/04/2008
MCDERMOTT WILL & EMERY LLP
18191 VON KARMAN AVE.
SUITE 500
IRVINE, CA 92612-7108

EXAMINER
WOOD, WILLIAM H

ART UNIT	PAPER NUMBER
3992	

MAIL DATE	DELIVERY MODE
11/04/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/787,224	FAUSAK, ANDREW T.
	Examiner	Art Unit	
	William H. Wood	2193	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>23 July 2008</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>See Continuation Sheet</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>See Continuation Sheet</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____

5)☐ Notice of Informal Patent Application

6)☒ Other: <u>See Continuation Sheet</u>.

Continuation of Disposition of Claims: Claims pending in the application are 1,2,5-7,10-13,16-19,22-25,27-29,31-34,36-39,41-45,47-50,52-56,58-62,64-67,69-71,73-76,78-81 and 83-111.

Continuation of Disposition of Claims: Claims rejected are 1,2,5-7,10-13,16-19,22-25,27-29,31-34,36-39,41-45,47-50,52-56,58-62,64-67,69-71,73-76,78-81 and 83-111.

Continuation of Attachment(s) 6). Other: Information Disclosure Statement Letter of 6/9/08.

DETAILED ACTION

1-2, 5-7, 10-13, 16-19, 22-25, 27-29, 31-34, 36-39, 41-45, 47-50, 52-56, 58-62, 64-67,

69-71, 73-76, 78-81, 83-111 are pending and have been examined.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 09 June 2008 has been

considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-7, 10-13, 16-19, 22-25, 27-29, 31-34, 36-39, 41-44, 47-50, 52-56, 58-

62, 64-67, 69-71, 73-76, 78-81, 83-104 are rejected under 35 U.S.C. 102(b) as being

anticipated by **Paul** et al. (US 6,466,972 B1).

Claim 1

Paul discloses a system for executing computing tasks in a preboot execution

environment, comprising:

a computer readable medium *(figure 1)* comprising:

a language agent with a preboot execution language interpreter, the language agent from a second system *(column 2, lines 27-30, bootstrap program from server; column 2, lines 43-47; column 2, lines 60-63; column 5, lines 49-50; interpreter implements the configuration described, software from server)*;

at least one specification for performing at least one computing task in the preboot execution environment, the at least one specification from the second system *(column 6, lines 45-67; column 7, lines 1-25; column 9, lines 16-28, various files for configuration)*,

wherein the language agent is configured to interpret the at least one specification for performing at least one computing task in the preboot execution environment, and configured to perform the at least one computing task specified *(column 6, lines 45-67; column 7, lines 1-25 and column 9, lines 16-28; configuring based on configuration files)*, and

wherein the at least one specification from the second system is an encapsulation, encapsulating parameters resolved at the system at execution time by the preboot execution language interpreter from the second system *(column 6, lines 45-67; column 7, lines 1-25 and column 9, lines 16-28; the parameters within the various configuration files which are read and resolved by the executing booting program from the server now on the client)*.

Claim 5

Paul discloses the system of claim 4, wherein the encapsulated parameters are

parametric behaviors as well as parametric data *(column 6, lines 45-67; column 7, lines 1-25 and column 9, lines 16-28).*

Claims 6-42, 85-100 and 103

The limitations of claims 6-42 and 103 correspond to the limitations of claims 1-5 and are rejected in a corresponding manner. The limitations of claims 85-100 are found in the above citations of claims 1-5.

Claim 43

Paul discloses a system for specifying computing tasks in a preboot execution environment, comprising a language agent with a preboot execution specification generator *(column 2, lines 43-47; column 2, lines 60-63; column 5, lines 49-50; column 9, lines 39-42, column 10, line 56 to column 11, line 5; generation shown column 10, lines 50-53; generation of the configuration files).*

Claim 44

Paul discloses the system of claim 43, further comprising a definition for at least one specification for performing at least one computing task in a preboot execution environment, wherein the at least one specification is generated from the definition by the language agent with a preboot execution specification generator *(column 2, lines 43-47; column 2, lines 60-63; column 5, lines 49-50; column*

9, lines 39-42, column 10, line 56 to column 11, line 5; generation shown column 10,

lines 50-53; generated configuration files before sent to client).

Claim 47

Paul discloses the system of claim 46, wherein the encapsulated parameters are parametric behaviors as well as parametric data *(column 10, line 56 to column 11, line 5).*

Claims 48-84, 101-102 and 104

The limitations of claims 48-84, 101-102 and 104 correspond to the limitations of claims 43-47 and are rejected in a corresponding manner.

Claims 1-2, 5-7, 10-13, 16-19, 22-25, 27-29, 31-34, 36-39, 41-45, 47-50, 52-56, 58-62, 64-67, 69-71, 73-76, 78-81, 83-111 are rejected under 35 U.S.C. 102(b) as being anticipated by and **Murphy** et al. (USPN 7,395,324).

Claim 1

Murphy discloses a system for executing computing tasks in a preboot execution environment, comprising:

a computer readable medium *(figure 2; column 3, lines 41-45)* comprising:

a language agent with a preboot execution language interpreter, the language agent from a second system *(column 9, lines 50-54; column 11, lines 1-6; figure 4B)*;

at least one specification for performing at least one computing task in the preboot execution environment, the at least one specification from the second system *(column 10, lines 61-63; column 11, lines 1-6)*,

wherein the language agent is configured to interpret the at least one specification for performing at least one computing task in the preboot execution environment, and configured to perform the at least one computing task specified *(column 11, lines 1-6; column 11, lines 55-65)*, and

wherein the at least one specification from the second system is an encapsulation, encapsulating parameters resolved at the system at execution time by the preboot execution language interpreter from the second system *(column 11, lines 55-65)*.

Claim 2

Murphy discloses the system of claim 1, wherein the preboot execution language interpreter is an object-oriented language interpreter *(column 2, lines 58-62)*.

Claim 5

Murphy discloses the system of claim 4, wherein the encapsulated parameters are parametric behaviors as well as parametric data *(column 11, lines 55-65; the*

parameters within the various configuration files which are read and resolved by the

executing booting program from the server now on the client).

Claims 6-42, 85-100 and 103

The limitations of claims 6-42 and 103 correspond to the limitations of claims 1-5 and

are rejected in a corresponding manner. The limitations of claims 85-100 are found in

the above citations of claims 1-5.

Claim 43

Murphy discloses a system for specifying computing tasks in a preboot execution

environment, comprising a language agent with a preboot execution specification

generator *(column 11, lines 66-67).*

Claim 44

Murphy discloses the system of claim 43, further comprising a definition for at least one

specification for performing at least one computing task in a preboot

execution environment, wherein the at least one specification is generated from

the definition by the language agent with a preboot execution specification

generator *(column 11, lines 66-67).*

Claim 45

Murphy discloses the system of claim 43, wherein the preboot execution

specification generator is an object-oriented language code generator *(column 2, lines 58-62)*.

Claim 47

Murphy discloses the system of claim 46, wherein the encapsulated parameters are parametric behaviors as well as parametric data *(column 11, lines 55-65; the parameters within the various configuration files which are read and resolved by the executing booting program from the server now on the client)*.

Claims 48-84, 101-102 and 104

The limitations of claims 48-84, 101-102 and 104 correspond to the limitations of claims 43-47 and are rejected in a corresponding manner.

Claim 105

Murphy discloses the system of claim 1, wherein the at least one computing task includes copying or applying an endpoint to an instance *(figure 4B, client side)*.

Claim 106

Murphy discloses the system of claim 1, wherein the at least one computing task includes a de-referencing operation *(column 11, lines 34-36)*.

Claim 107

Murphy discloses the system of claim 1, wherein the at least one computing task

includes initiating or terminating encapsulation of archives *(column 11, lines 55-65;*

column 12, lines 20-23).

Claim 108

Murphy discloses the system of claim 1, wherein the at least one computing task

includes referencing archives from a single archive *(column 12, lines 20-23)*.

Claim 109

Murphy discloses the system of claim 1, wherein the language agent is configured to

generate encapsulations and to interpret the encapsulations *(column 11, lines 66-67)*.

Claim 110

Murphy discloses the system of claim 1, wherein while executing an encapsulation, the

language agent is configured to generate another encapsulation that is to be executed

at a later time *(column 11, lines 23-26)*.

Claim 111

Murphy discloses the system of claim 101, wherein no programs or codes are

preserved separate from the encapsulation *(column 12, lines 10-12, all the configuration*

and boot files).

Response to Arguments

Applicant's arguments with respect to claims 1-2, 5-7, 10-13, 16-19, 22-25, 27-29, 31-34, 36-39, 41-45, 47-50, 52-56, 58-62, 64-67, 69-71, 73-76, 78-81, 83-111 have been considered but are moot in view of the new ground(s) of rejection (both under **Paul** et al. (US 6,466,972 B1) and **Murphy** et al. (USPN 7,395,324)).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Correspondence Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Wood whose telephone number is (571)-272-3736. The examiner can normally be reached 10:00am - 4:00pm Tuesday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lewis A. Bullock Jr. can be reached on (571)-272-3759. The fax phone numbers for the organization where this application or proceeding is assigned are (571)273-8300 for regular communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained form either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR systems, see http://pair-direct.uspto.gov. For questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-3900.

/William H. Wood/
William H. Wood
Primary Examiner, Art Unit 2193
November 4, 2008